

requirements, Sulfur oxides, Volatile organic compounds.

#### 40 CFR Part 70

Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Dated: April 22, 2005.

**James B. Gulliford,**  
*Regional Administrator, Region 7.*

■ Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

#### PART 52—[AMENDED]

■ 1. The authority citation for Part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

#### Subpart AA—Missouri

■ 2. In § 52.1320(c) the table is amended under Chapter 6 by revising the entry for “10–6.110” to read as follows:

#### § 52.1320 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

#### EPA-APPROVED MISSOURI REGULATIONS

Missouri citation	Title	State effective date	EPA approval date	Explanation
<b>Missouri Department of Natural Resources</b>				
* * * * *				
<b>Chapter 6—Air Quality Standards, Definitions, Sampling and Reference Methods, and Air Pollution Control Regulations for the State of Missouri</b>				
* * * * *				
10–6.110 .....	Submission of Emission Data, Emissions Fees, and Process Information.	12/30/04	5/2/05 [insert FR page number where the document begins].	Section (3)(D), Emission Fees, has not been approved as part of the SIP.
* * * * *				

\* \* \* \* \*

#### PART 70—[AMENDED]

■ 1. The authority citation for Part 70 continues to read as follows:

**Authority:** 42 U.S.C. 7401, *et seq.*

#### Appendix A—[Amended]

■ 2. Appendix A to Part 70 is amended by adding paragraph (p) under Missouri to read as follows:

#### Appendix A to Part 70—Approval Status of State and Local Operating Permits Programs

\* \* \* \* \*

Missouri

\* \* \* \* \*

(p) The Missouri Department of Natural Resources submitted revisions to Missouri rule 10 CSR 10–6.110, “Submission of Emission Data, Emission Fees, and Process Information” on December 8, 2004, approval of section (3)(D) effective July 1, 2005.

\* \* \* \* \*

[FR Doc. 05–8703 Filed 4–29–05; 8:45 am]

**BILLING CODE 6560–50–P**

#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 300

[FRL–7905–5]

#### National Oil and Hazardous Substance Pollution Contingency Plan; National Priorities List

**AGENCY:** Environmental Protection Agency.

**ACTION:** Direct final notice of deletion of the Lower Ecorse Creek Superfund Site from the National Priorities List.

**SUMMARY:** The Environmental Protection Agency (EPA), Region V is publishing a direct final notice of deletion of the Lower Ecorse Creek, Superfund Site (Site), located in Wyandotte, Michigan, from the National Priorities List (NPL).

The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is appendix B of 40 CFR part 300, which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). This direct final deletion is being published by EPA with the concurrence of the State of Michigan, through the Michigan Department of Environmental Quality, because EPA has determined that all appropriate response actions under CERCLA have been completed

and, therefore, further remedial action pursuant to CERCLA is not necessary at this time.

**DATES:** This direct final notice of deletion will be effective July 1, 2005, unless EPA receives adverse comments by June 1, 2005. If adverse comments are received, EPA will publish a timely withdrawal of the direct final notice of deletion in the **Federal Register** informing the public that the deletion will not take effect.

**ADDRESSES:** Comments may be mailed to: Timothy Prendiville, Remedial Project Manager (RPM) at (312) 886–5122, [Prendiville.Timothy@EPA.Gov](mailto:Prendiville.Timothy@EPA.Gov) or Gladys Beard, State NPL Deletion Process Manager at (312) 886–7253, [Beard.Gladys@EPA.Gov](mailto:Beard.Gladys@EPA.Gov), U.S. EPA Region V, 77 W. Jackson, Chicago, IL 60604, (mail code: SR–6J) or at 1–800–621–8431.

**Information Repositories:** Comprehensive information about the Site is available for viewing and copying at the Site information repositories located at: EPA Region V Library, 77 W. Jackson, Chicago, IL 60604, (312) 353–5821, Monday through Friday 8 a.m. to 4 p.m.; Bacon Memorial Public Library, 45 Vinewood, Wyandotte, MI 48186, (734) 246–8357, Monday through Thursday 10 a.m. to 9 p.m., Friday and 9 a.m. to 5 p.m.

**FOR FURTHER INFORMATION CONTACT:** Timothy Prendiville, Remedial Project

Manager at (312) 886-5122, *Prendiville.Timothy@EPA.Gov* or Gladys Beard, State NPL Deletion Process Manager at (312) 886-7253, *Beard.Gladys@EPA.Gov* or 1-800-621-8431, (SR-6J), U.S. EPA Region V, 77 W. Jackson, Chicago, IL 60604.

#### SUPPLEMENTARY INFORMATION:

##### Table of Contents

- I. Introduction
- II. NPL Deletion Criteria
- III. Deletion Procedures
- IV. Basis for Site Deletion
- V. Deletion Action

## I. Introduction

EPA Region V is publishing this direct final notice of deletion of the Lower Ecorse Creek, Superfund Site from the NPL.

The EPA identifies sites that appear to present a significant risk to public health or the environment and maintains the NPL as the list of those sites. As described in § 300.425(e)(3) of the NCP, sites deleted from the NPL remain eligible for remedial actions if conditions at a deleted site warrant such action.

Because EPA considers this action to be non-controversial and routine, EPA is taking it without prior publication of a notice of intent to delete. This action will be effective July 1, 2005, unless EPA receives adverse comments by June 1, 2005, on this document. If adverse comments are received within the 30-day public comment period on this document, EPA will publish a timely withdrawal of this direct final deletion before the effective date of the deletion and the deletion will not take effect. EPA will, as appropriate, prepare a response to comments and continue with the deletion process on the basis of the notice of intent to delete and the comments already received. There will be no additional opportunity to comment.

Section II of this document explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses the Lower Ecorse Creek Superfund Site and demonstrates how it meets the deletion criteria. Section V discusses EPA's action to delete the Site from the NPL unless adverse comments are received during the public comment period.

## II. NPL Deletion Criteria

Section 300.425(e) of the NCP provides that releases may be deleted from the NPL where no further response is appropriate. In making a determination to delete a release from the NPL, EPA shall consider, in

consultation with the State, whether any of the following criteria have been met:

- i. Responsible parties or other persons have implemented all appropriate response actions required;
- ii. All appropriate Fund-financed (Hazardous Substance Superfund Response Trust Fund) responses under CERCLA have been implemented, and no further response action by responsible parties is appropriate; or
- iii. The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, the taking of remedial measures is not appropriate.

Even if a site is deleted from the NPL, where hazardous substances, pollutants, or contaminants remain at the deleted site above levels that allow for unlimited use and unrestricted exposure, CERCLA section 121(c), 42 U.S.C. 9621(c), requires that a subsequent review of the site be conducted at least every five years after the initiation of the remedial action at the deleted site to ensure that the action remains protective of public health and the environment. If new information becomes available which indicates a need for further action, EPA may initiate remedial actions. Whenever there is a significant release from a site deleted from the NPL, the deleted site may be restored to the NPL without application of the hazard ranking system.

## III. Deletion Procedures

The following procedures apply to deletion of this Site:

(1) The EPA consulted with Michigan on the deletion of the Site from the NPL prior to developing this direct final notice of deletion.

(2) Michigan concurred with deletion of the Site from the NPL.

(3) Concurrently with the publication of this direct final notice of deletion a notice of intent to delete is published today in the "Proposed Rules" section of the **Federal Register**, is being published in a major local newspaper of general circulation at or near the Site, and is being distributed to appropriate federal, state, and local government officials and other interested parties. The newspaper notice announces the 30-day public comment period concerning the notice of intent to delete the Site from the NPL.

(4) The EPA placed copies of documents supporting the deletion in the site information repositories identified above.

(5) If adverse comments are received within the 30-day public comment period on this document EPA will publish a timely notice of withdrawal of this direct final notice of deletion before

its effective date and will prepare a response to comments and continue with a decision on the deletion based on the notice of intent to delete and the comments already received.

Deletion of a site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. Deletion of a site from the NPL does not in any way alter EPA's right to take enforcement actions, as appropriate. The NPL is designed primarily for informational purposes and to assist EPA management. Section 300.425(e)(3) of the NCP states that the deletion of a site from the NPL does not preclude eligibility for future response actions should future conditions warrant such actions.

## IV. Basis for Site Deletion

The following information provides EPA's rationale for deleting this Site from the NPL:

### Site Location

The LEC Site is located in Section 17, R11E, T3SN in the City of Wyandotte, Wayne County, Michigan. The City of Wyandotte is located about 6 miles southwest of the City of Detroit. The Site area includes six residential blocks centered around the 400 block of North Drive. The Detroit and Toledo Railroad tracks are located east of the residential area. The Ecorse River borders the site to the north and west. Directly north of the Ecorse River are the Downriver Communities Combined Sewer Overflow Treatment Plant and the Abandoned Great Lakes Steel Foundry. Two lots located at 2303 Oak Street were also included as part of the site. The Oak Street Site is located approximately 1.5 miles west-northwest of the North Drive properties at the corner of 23rd and Oak Street.

### Site History

Before 1930, lands near the banks of the Ecorse River in Wyandotte were wetlands. A 1937 aerial photograph shows the wetlands and small brook that flowed to a river in the lots between lots 23/24 (470/480 North Drive) and lot 27 (446 North Drive). A 1951 photograph indicates that most of the wetland area had been filled, and residential development along North Drive had occurred by that time.

By 1957 the river had been rechanneled. The confluence of the north and south branches of the river were relocated from north of lot 43 (304 North Drive). Extensive fill is evident north of the Ecorse River. Modifications to the river in the early 1980s involved straightening the south bank of the river at the rear of several residential

properties in the area, reportedly using construction debris as fill. Interviews with local residents indicate that the homes on North Drive were built from about the 1920s through the 1980s.

In 1989, the owner of the residence at 470/480 North Drive (Lots 23/24) reported to the Wayne County Health Department (WCHD) that workers excavating on their property had encountered blue-colored soil. The WCHD contacted the Agency for Toxic Substances and Disease Registry (ATSDR), and both agencies subsequently contacted the U.S. EPA for further investigation. The U.S. EPA found a large area of soil contaminated with ferric ferrocyanide. It is suspected that the waste came from a coal-gasification plant. Blue-colored water was observed in the basement sump of the house on lots 23/24. Blue stains were also seen on the basement walls of the house.

#### *Remedial Investigation and Feasibility Study (RI/FS)*

In January 21, 1994, U.S. EPA initiated a fund-lead RI/FS. U.S. EPA's contractor, CH2M Hill initiated field work at the site in November of 1994 and completed the activities by December 1994. The RI found that soils were the only medium of concern and that the soils in the North Drive area were contaminated with cyanide, PAHs and other metals.

In the area of the previous investigations performed during the time-critical removal, cyanide was detected in 73 percent of the surface soil samples at a maximum reported concentration of 1,730 mg/kg. During the RI, cyanide was also detected in the subsurface soils in most of the samples collected from the area of the previous investigations with a maximum concentration of 32,300 mg/kg at a depth of 4 to 6 feet. The maximum cyanide concentration in the soil samples collected outside the previous investigation area was 4.0 mg/kg, measured in a surface soil sample.

Antimony, arsenic, barium, chromium, copper, iron, lead, manganese, and zinc were the metals detected most frequently at concentrations greater than background in both surface and subsurface soils at the site. Metals were detected above background most frequently in the fill area adjacent to the Ecorse River.

The majority of surface soil samples did not contain any detectable volatile organic compounds (VOCs). Polynuclear aromatic hydrocarbons (PNAs), were detected across the site in both surface and subsurface soils. The maximum detected for an individual PNA was

150,000 ug/kg for pyrene. The highest concentration of PNA's were detected in the area of previous investigations. Dioxin was found in soils at 10 site locations, primarily in the playground/park area at a maximum concentration of 16.0 ng/g. Two surface soil and two subsurface soil samples also contained polychlorinated biphenyls (PCBs). The maximum concentration was 250 ug/kg in a subsurface soil sample from the playground/park area.

At the Oak Street area, cyanide was detected in subsurface soils at concentrations ranging from 44.1 to 7,438 mg/kg. The highest concentrations were found in the west area, adjacent to the asphalt parking area.

A Feasibility Study (FS) was prepared for this site by U.S. EPA's contractor CH2M Hill in January 1996. It evaluated three alternatives for the site based upon the findings in the RI: (1) No Action, (2) Excavation and Disposal of Shallow Contaminated Soil and Implementation of Institutional Controls for Areas with Deep Contamination, and (3) Excavation and off-site Treatment and Disposal of Shallow and Deep Contaminated Soil.

Part of the site work during the RI/FS and RD/RA has centered on isolated spots of contamination found in the City of Wyandotte owned Park Area located on the 600 block of North Drive. The Park Area is about 1 acre in size and has a small playground equipment area, swing set, pavilion and basketball court, but most of the property is grass covered and is for general recreational use.

Sampling of the Park during the RI had found 3 small areas of subsurface soil with lead and/or arsenic above cleanup standards. The Remedial Design estimated that approximately 170 cubic yards of contaminated soil would require removal. When excavation continued at the Park in March 2000, a layer of debris was found three to four feet beneath the surface. This material had no similarities to the cyanide waste found elsewhere in the area. When the material was sampled elevated levels of lead and arsenic slightly above the State of Michigan's cleanup standards were found. Nine test excavations were dug to determine the extent of this waste layer. Those tests showed that the layer of debris exists under most of the park and is about six feet thick (approximately 10,000 cubic yards of waste) with three feet of clean fill above the waste layer. Surface soil sample results from 15 locations taken during the RI have shown that the surface soils are clean. However the material does not continue onto adjacent properties. None of the material in any of the test pits exhibited the same physical characteristics as the

cyanide contaminated waste found on other properties. The debris appears to be general household waste disposed of many years ago and consisting of things such as broken glass, rags, shoes and other garbage.

#### *Record of Decision Findings*

In April 1996, U.S. EPA issued a Proposed Plan to the public, and held a public meeting on May 9, 1996, to discuss the proposal. Public comments were also received at the meeting. The public comment period extended from April 30, 1996 through May 29, 1996.

On July 17, 1998, with the concurrence of the MDEQ, the U.S. EPA signed a Record of Decision for the Lower Ecorse Creek Site. Responses to all public comments received on the Proposed Plan are contained in the Responsiveness Summary attached to the final ROD. The U.S. EPA selected Alternative 3 Excavation and Off-Site Treatment and Disposal of Shallow and Deep Contaminated Soil, as the most appropriate remedy for the site. The major components of the selected remedy were:

- Resampling of the locations above the cleanup standards in residential properties to determine the extent of contamination;
- Excavation of shallow and deep contaminated soils;
- Off-site disposal of contaminated soil with prior stabilization, if required, based on waste characterization sampling; and,
- Restoration of residential areas.

U.S. EPA published notice of a proposed plan to amend the 1996 Record of Decision to address the conditions in the park area. The public comment period ran from February 28, 2001 until March 29, 2001. No comments were received from the general public nor from the City of Wyandotte, the property owner. On July 13, 2001, the U.S. EPA Region 5 Superfund Division Director signed a ROD amendment addressing the subsurface soil contamination in the Park Area. The amended remedy requires implementation and maintenance of institutional controls restricting use of the land and the groundwater at the City of Wyandotte Park Area. The ROD Amendment also specified that the remedy would remain unchanged for all other portions of the Site.

#### *Characterization of Remaining Risk*

The only remaining risks at the Lower Ecorse Creek site are related to the remaining contamination in the park area. Currently the remaining

contamination is located beneath at least 3 feet of clean fill material. The City of Wyandotte is responsible for maintaining the integrity of that cover layer. However, if the cover layer were to erode or become damaged in some other way, recreational users could come in contact with the contaminated waste. The only contaminants found in the park area during the RI/FS and RD/RA above MDEQ Part 201 health-based standards were lead and arsenic. Through confirmation sampling all other areas of the site are considered clean, i.e., below MDEQ Part 201 health-based standards.

#### *Response Actions*

ATSDR issued health consultations on the site in November 1989, July 1990, November 1990, and March 1991. ATSDR concluded in these consultations that the site posed a significant health threat and recommended that the residents avoid contact with the contaminated areas until permanent measures could be completed.

In December 1989, U.S. EPA covered the areas of visible contamination with six inches of clean top soil. After it was reported that the new soil was being eroded away, additional soil was added to the cover in August 1991. In January 1993, the owner of the residence at lots 23/24 reported that his basement had flooded with blue water. U.S. EPA investigators found that these waters contained high concentrations of cyanide.

On August 13, 1993, ATSDR issued a Public Health Advisory for the North Drive (Lower Ecorse Creek) Site. The Advisory concluded that the cyanide levels found in the soil posed a significant public health hazard and that anyone using shallow ground water in the site area may be at a risk of exposure to cyanide contaminated water. The advisory made several recommendations, the most significant of which was to dissociate the residents from the cyanide contamination.

In November 1993, U.S. EPA began a time-critical removal action at the site. This action included sampling 10 residential lots for cyanide and other contaminants. Based upon these results, contaminated soils from around the residences at lots 23/24 and 91/92 were removed and disposed of off-site. The foundations at both residences were also found to be deteriorated by the corrosive nature of the waste. Repairs were made by U.S. EPA to both foundations. At lots 23/24 application of a chemical resistant sealant to the basement walls and floors, and restorations of the surface drainage at the residence were also required. The

time-critical removal was completed by January 1994.

On January 19, 1994 the Lower Ecorse Creek site was proposed for listing on the National Priorities List (NPL) based upon ATSDR's Public Health Advisory. The site became final on the NPL on May 31, 1994.

In March 1995, an area of cyanide contamination, similar to the material identified at the North Drive area, was discovered at the residential lot at 2303 Oak Street, Wyandotte, Michigan. A time-critical removal action was initiated and contaminated soil was excavated and disposed off-site; the site was restored in May 1995. Because of the apparent similarity of the material to that found at the LEC site, the Oak Street site was included in the Remedial Investigation/Feasibility Study for the LEC Site.

On November 29, 1995, ATSDR released a final Public Health Assessment for the site which stated that the recommendations made in the 1993 Public Health Advisory concerning this site have been met.

Site mobilization for the fund-lead RA began in April 1998. All construction activities were completed in September 2000. Forty-nine individual areas were excavated over the course of the RA affecting 14 separate residential lots. During the RA, approximately 3,500 tons of contaminated soil have been removed from the site and disposed of in an approved off-site facility. Also, approximately 90,000 gallons of water were disposed of off-site. During the excavation of several locations water from the creek infiltrated the open hole. In order to complete the excavation of the contaminated soil the water was pumped out of the holes and disposed of at an off-site treatment facility. Also, remaining was the re-waterproofing of the basement at 471 North Drive. During the 1994 Removal project at the site the basement wall was reconstructed and waterproofed. After the completion of the work on his basement, the homeowner complained of water seeping into the basement through that wall. The subsequent repairs took place through the Remedial Action contract and were completed in September 2000. A complete narrative of the RA activities can be found in the September 20, 2000 Remedial Action Report. The final inspection took place on September 20, 2000. In May 2002, the homeowner of 471 North Drive contacted the U.S. EPA Project Manager (RPM). The homeowner observed blue staining at the base of the north basement wall. On May 16, 2002, the RPM inspected the basement and verified the owner's observations. A

small area of blue staining was observed at the base of the cinder block wall, about 6 to 12 inches from the eastern wall. Water seepage also was noted along the entire length of the wall.

In August 2002, U.S. EPA executed a procurement request with CH2M Hill to address the remaining concerns at the 471 North Drive property. In September 2002, remedial excavation activities were initiated by CH2M Hill to address the seepage of contaminated water into the residential basement at 471 North Drive. Remedial construction consisted of the excavation and off site disposal of the contaminated soil adjacent to the north basement walls below the front porch, exposure of the north basement wall, and application of waterproofing material to the foundation wall to prevent further leakage. The north foundation drain line was found to be crushed and was replaced prior to backfill of the foundation wall. Confirmatory soil sampling was conducted from September 18 to September 30, 2002. The sampling results indicated that no additional excavation and remedial construction work was required.

#### *Cleanup Standards*

For the soil a risk-based cleanup standard was used which is protective of human health the environment. The cleanup standards in the ROD were designed to meet the Michigan Act 245, Rule 57 and Michigan Act 451, Part 201 performance standards. This Site is being deleted because it meets all cleanup standard's outlined in the ROD.

#### *Operation and Maintenance*

The cleanup selected in the original 1996 ROD remedy did not require operation and maintenance because all contaminated soils were to be excavated and disposed of off-site. However, implementation of the 2001 ROD Amendment #1 results in approximately 10,000 cubic yards of waste being left on-site on one parcel of the property, the Park Area. In accordance with ROD Amendment #1, and the 2002 UAO, the City of Wyandotte is responsible for the monitoring and maintenance of the existing cover on the Park Area and maintenance of deed restrictions on the parcel. During routine maintenance of the Park Area, the City is required to inspect the property for any conditions which may, in the course of recreational use or precipitation events, erode the approximately three foot layer of clean fill material. They are also to repair any areas where the soil cover has been disturbed or eroded. A formal inspection of the property is to be recorded by the City on a yearly basis.

### Five-Year Review

A statutory five-year review will be conducted for the Site on July 13, 2006. As required by Statute, the EPA must conduct a five-year review pursuant to CERCLA 121 (c) and as provided in the current guidance on Five Year Reviews.

### Community Involvement

Public participation activities have been satisfied as required in CERCLA section 113(k), 42 U.S.C. 9613(k), and CERCLA section 117, 42 U.S.C. 9617. Documents in the deletion docket which EPA relied on for recommendation of the deletion of this Site from the NPL are available to the public in the information repositories.

### V. Deletion Action

The EPA, with concurrence of the State of Michigan, has determined that all appropriate responses under CERCLA have been completed, and that no further response actions, under CERCLA are necessary. Therefore, EPA is deleting the Site from the NPL.

Because EPA considers this action to be non-controversial and routine, EPA is taking it without prior publication. This action will be effective July 1, 2005, unless EPA receives adverse comments by June 1, 2005. If adverse comments are received within the 30-day public comment period, EPA will publish a timely withdrawal of this direct final notice of deletion before the effective date of the deletion and it will not take effect. EPA will prepare a response to comments and, as appropriate, continue with the deletion process on the basis of the notice of intent to delete and the comments already received. There will be no additional opportunity to comment.

### List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: April 20, 2005.

**Norman Niedergang,**

*Acting Regional Administrator, U.S. EPA Region V.*

■ For the reasons set out in this document, 40 CFR part 300 is amended as follows:

### PART 300—[AMENDED]

■ 1. The authority citation for part 300 continues to read as follows:

**Authority:** 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR,

1991 Comp., p.351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p.193.

### Appendix B—[Amended]

■ 2. Table 1 of Appendix B to Part 300 is amended under Michigan “MI” by removing the entry for “Lower Ecorse Creek” and the city “Wyandotte.”

[FR Doc. 05–8601 Filed 4–29–05; 8:45 am]

BILLING CODE 6560–50–P

## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

#### 49 CFR Part 24

[FHWA Docket No. FHWA–2003–14747]

FHWA RIN 2125–AE97

### Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally-Assisted Programs

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Correction to final rule.

**SUMMARY:** This document corrects the final rule updating 49 CFR Part 24 published in the **Federal Register** on January 4, 2005 (70 FR 590). The FHWA is making two corrections. First, references to “market value” are corrected to “fair market value.” Second, in Appendix A, Section 24.103 the numerical reference is corrected.

**DATES:** *Effective Date(s):* June 1, 2005

**FOR FURTHER INFORMATION CONTACT:** Mr. Reginald K. Bessmer, Office of Real Estate Services, HEPR, 202–366–2037, or Ms. JoAnne Robinson, Office of the Chief Counsel, HCC–30, (202) 366–1346, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590–0001. Office hours for the FHWA are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

### SUPPLEMENTARY INFORMATION:

#### Electronic Access

Internet users can access all comments received by the U.S. DOT Dockets, Room PL–401, by using the universal resource locator (URL): <http://dms.dot.gov>. It is available 24 hours each day, 365 days each year. Please follow the instructions online for more information and help.

Internet users may also reach the Office of the Federal Register’s home page at: <http://www.archives.gov> and the Government Printing Office’s Web page at: <http://www.access.gpo.gov/nara>.

### Background

The FHWA published a final rule updating 49 CFR Part 24 on January 4, 2005, at 70 FR 590. After reviewing the final published document, the FHWA realized that there were two mistakes.

First, the language in the final rule cited market value rather than fair market value in twelve locations. In the notice of proposed rulemaking, published on December 17, 2003 (68 FR 70342), we proposed changing the term from “fair market value” to “market value.” However, after reviewing the comments in response to the NPRM, we decided not to make that change in the final rule. In fact, in the preamble discussion of the final rule, we discussed the fact that a commenter indicated that the term “market value” did not reflect current appraisal terminology nor was it universally accepted eminent domain terminology. Therefore, we clearly stated that the term “fair market value” is consistent with Uniform Act language and, accordingly, we will retain the term “fair market value.” (See preamble to final rule at 70 FR 595). Additionally, clearly the intent was to use fair market value, as cited in Appendix A, Subpart B-Real Property Acquisition, where use of fair market value is cited as being “used throughout this subpart.” It was an unintentional oversight that the term “market value” remained in the text of the final rule.

Secondly, we discovered an error in a numerical reference to a cite. In Appendix A, Section 24.103(a), Appraisal requirements, the reference “49 CFR 24.103(a)(1) through (5)” should read “49 CFR 24.103(a)(2)(i) through (v).”

### Rulemaking Analyses and Notices

*Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures*

The FHWA has determined that this action is not a significant regulatory action within the meaning of Executive Order 12866 and the U.S. Department of Transportation regulatory policies and procedures. This action merely corrects terminology and a reference citation in the final rule. This correction is not a substantive change to the rule, but rather, is a ministerial change necessary to accurately reflect the intent of the FHWA.

### Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601–612), the FHWA has evaluated the effects of this final rule on small entities and has determined it will not have a